

PUZZLING OVER PISTOL LAW

TEST CASE DOESN'T GET BEYOND POLICE COURT.

Where Bank Clerk Arrested for Having Revolver in Office Drawer Is Discharged—Rights of Dealers to Be Determined—Mr. Sullivan's Opinion.

The intention of District Attorney Whitman to make a test case of the arrest of William R. Ruhl, a bank clerk taken into custody on Tuesday under a section of the new Sullivan pistol law, was frustrated yesterday by Magistrate O'Connor, who decided that there was not enough evidence to warrant holding Ruhl for trial, and so the District Attorney will not be able to get the higher court to pass upon the matter, as he had hoped to do.

Ruhl works for a banking house at 60 Wall street and has been in the habit of keeping a revolver in his desk as a protection. He armed himself with it when carrying large sums of money through the street. Last Tuesday the revolver went off while he was examining it in the office and slightly wounded another clerk. The shooting was accidental, but it was decided to arrest Ruhl in order to make a test case out of the possession of the revolver.

It was conceded that the revolver had come lawfully into his possession. Since the law took effect it is unlawful to obtain a revolver without a license. What District Attorney Whitman wanted to test was whether it was against the law for a man who had come lawfully into possession of a gun prior to the passage of the law to keep one in his desk or in his home.

When Magistrate O'Connor read the complaint he announced that he didn't think that Ruhl's possession of the revolver in his desk was against the new law.

"Mr. Wasservogel," said he to the Assistant District Attorney, "if a man had a revolver hanging on his wall for fifteen years as a souvenir and on September 5 the revolver was still there and the man had not obtained a license for it do you think that man would be guilty of a felony?"

The Assistant District Attorney thought he would. He compared the gun license with a dog license.

"If the law said that all dogs must be licensed after September 1 and you had a dog and didn't get a license wouldn't you be amenable to that law?"

Magistrate O'Connor admitted that he would be but stuck to his decision about the revolver.

Ruhl's lawyer, Benjamin Cardozo of 111 Broadway, said that by the common interpretation of the new law if a man had a revolver on September 1 he would have to bury it in the ground, and even then he would be guilty of a violation of the statute.

The evidence shows that the defendant had a revolver in a drawer for two years prior to September 1, said Magistrate O'Connor, and that on September 5 it was still in that drawer. But he left at the right of access to that drawer it was not in his sole possession, and he did not have full control. He is discharged.

District Attorney Whitman announced yesterday that he had arranged with Michael J. Sweeney, counsel for the Pawnbrokers' Association, to have the charge made against a wholesaler without permits, a pawnbroker, for having in his window without permits five pistols, made a test case. Sweeney will apply for a writ of habeas corpus to-day for Prince which will be returnable to-morrow before Justice Goff of the Supreme Court. The decision in this case will decide one way or the other whether pawnbrokers and dealers without permits for the sale of revolvers have in their shops and whether a separate permit for each revolver is necessary.

As the law reads now a retailer can sell revolvers from a wholesaler without permits, but he cannot hold them without each license from a City Magistrate or Police Commissioner. Also he can sell only to persons holding permits. Consequently, the obtaining of two permits is necessary before a revolver can be sold.

The law as it stands now does not draw a distinction between a permit issued for a revolver that is to be kept in a specified place and a permit that allows a man to carry the revolver. But at Police Headquarters two different kinds of permits are now being issued. One is for a permit to carry a revolver, and the other is for a permit to keep a revolver.

Judge Foster of the Court of General Sessions was asked yesterday whether he would enforce the statute. A large part of the law had been on the statute books for years, he said, but had not been enforced. Mr. Sullivan took issue with District Attorney Whitman, who has said that he did not think the Sullivan law would be applied to the householder who kept a revolver in his home for protection.

Magistrate O'Connor hit the nail on the head in an opinion. He said that the law is a test case. This law has a great object to perform and the real intent should prevail over its strict letter. The law serves a good purpose, it is a wise State and public policy which dictates the carrying of arms, law and order. The strict enforcement of the law will do much to dissipate and discourage crime.

A State in the exercise of its police powers can regulate the manner of keeping and carrying weapons. States have regulated by law the carrying of arms. Such laws have been held not to infringe upon the Constitution of the United States. Here the right to carry arms, as such right is defined in the Federal Constitution, does not seem to be infringed. The law does not prohibit the possession or carrying of arms, it regulates under what terms they may be had and kept. The requirements being a license properly issued.

As I have said before the law contemplates two separate and distinct licenses, one for the carrying of concealed weapons, which in our city can be procured at Police Headquarters if the applicant is of the proper character and can show good reason for carrying it and for which a fee of \$10 is to be paid.

I believe the license or permit for their possession should be made easy for the citizen or householder to procure; that it should be issued not alone by the police authorities, but by the nearest sitting magistrate; that a nominal fee or no fee at all should be charged; and that of course all that should be necessary to obtain it would be to show to the issuing authority good character by affidavits or otherwise and good reason for such possession.

WALSH BUYS SOUTHERN IRON.

Cargo of Pig Going From Birmingham District Via Savannah.

SAVANNAH, Sept. 6.—With a cargo of 2,500 tons of pig iron the British whale-boat Whitley Hall will soon sail for Swansea, Wales. This will be the largest single cargo ever sent from Birmingham through the port of Savannah. The cargo was brought to Savannah from Enley, Ala., just outside of Birmingham. That Wales should get pig iron from America is unusual.

INTERBOROUGH DIVIDENDS UP.

And Provision Is Made to Retire the Inter-Met. Bonds.

The Interborough Rapid Transit Company has declared an extra dividend of 1 per cent. out of earnings for the last year and has increased the regular quarterly dividend of 2 1/2 per cent. to 2 3/4 per cent., placing the stock on a 10 per cent. basis. These increased dividends will be used to establish a sinking fund for the retirement of the \$67,825,000 Interborough-Metropolitan 4 1/2 per cent. bonds.

This action was determined upon by the directors of the Interborough-Metropolitan in 1910, when they decided to appropriate \$300,000 annually out of any surplus income of the company to acquire the bonds in the open market at not exceeding par and interest.

President Shonts in a statement yesterday said:

The time now having come when the Interborough Rapid Transit Company has felt justified in increasing its dividend beyond the regular rate of 2 1/2 per cent. and has decided to pay the Interborough-Metropolitan company will be in a position to put in effect the declared policy of the company with respect to its 4 1/2 per cent. bonds.

Inasmuch as these bonds when turned in to the trustee as additional security for the mortgage cannot under the terms of the resolution of June 2, 1910, be released and will continue to draw interest, which must also be devoted to sinking fund purposes, a sum of over \$100,000 or a larger amount if the bonds can be secured at less than par will have been accumulated before their expiration for the purpose of paying off the \$67,825,000 4 1/2 per cent. bonds outstanding.

Contemporaneously, by reason of the paying off of the 5 per cent. bonds of the Interborough Rapid Transit Company, by the sinking fund provided for by that mortgage, the equipment of that company, now valued at \$38,000,000, will have been released from that mortgage and the assets of the Interborough-Metropolitan company will have been enhanced by a corresponding sum. The value of the stock in the Interborough Rapid Transit Company, there will remain the lease of the Manhattan Railway Company, which has been earning at a rate approximately \$1,000,000 surplus to the Interborough company.

MAN WITH NO COUNTRY NOW.

England Won't Have Him, and He Can't Show That He's American.

A young man who says that he hails from Newport, Ky., is being detained at Ellis Island while the immigration officials are waiting for confirmation of his story. This confirmation doesn't come he will be sent back to England, and he says he would rather be sent to hell than to England.

The young man says he is Frederick Dube and that he is 21 years old. Two years ago, he says, he developed a desire to see something of the world. He went first to Philadelphia and there shipped to Liverpool, working his way over. For a time he got along all right in Liverpool doing odd jobs. Then he found he couldn't get any more of the odd jobs, and with no money he was getting pretty hungry. Finally, he says, to avoid starvation he went out and smashed a window.

He got seven months for this, which was rather more than he had expected. And when he had served his time he received nine shillings and injunction to leave the country within three days on penalty of being sent back for more.

He couldn't get a job on any vessel leaving Liverpool within the prescribed time, he says, and was picked up again and sent back for three months more, according to the promise. When he had served this second bit he appealed to the American Consul, who arranged for his return on the American liner St. Louis. When he arrived in New York he had no proof of his American birth, and since he has no money he will have to stay at the island until a sister, who he says lives in Newport, sends confirmation of his story.

SWINDLERS FOUND HIM EASY.

Porto Rican College Boy Parts With His Money to Two Strangers.

Matteo Fiarlo, a Porto Rican who is studying law at Union College, appeared before Magistrate Krotel in the West Side court yesterday to prosecute a charge of larceny against James Mack, a negro of 160 West 134th street, and James Wilson, of 1208 Third avenue.

Fiarlo, whose father is a sugar planter, was on his way back to college when he stopped off in New York. He met Wilson on Seventh avenue near Forty-second street. Wilson called Fiarlo's attention to Mack.

"That is one of the best plungers in New York," he told the Porto Rican. "See what he likes in the races to-day." "Have you got a load pencil?" asked Mack, approaching the Porto Rican opportunist. Wilson handed a pencil to Fiarlo, who passed it to Mack. Then Fiarlo asked Mack concerning his selections.

Fiarlo accompanied the two through-out the afternoon. First he pawned a diamond ring for \$10 and then started a day later, he said. This law has a great object to perform and the real intent should prevail over its strict letter. The law serves a good purpose, it is a wise State and public policy which dictates the carrying of arms, law and order. The strict enforcement of the law will do much to dissipate and discourage crime.

A State in the exercise of its police powers can regulate the manner of keeping and carrying weapons. States have regulated by law the carrying of arms. Such laws have been held not to infringe upon the Constitution of the United States. Here the right to carry arms, as such right is defined in the Federal Constitution, does not seem to be infringed. The law does not prohibit the possession or carrying of arms, it regulates under what terms they may be had and kept. The requirements being a license properly issued.

A HOME FOR SUFFRAGETTES.

Mrs. Belmont Buys House in Forty-first Street to Shelter Clubwomen.

Mrs. O. H. P. Belmont has bought from Mr. Florian Krug his residence at 13 East Forty-first street. Last April she bought the house adjoining it at 15 from Mrs. R. B. Kimball. Both houses, it is understood, are to be used as the headquarters of the suffrage movement. The buildings, it is said, will be connected and altered into a club-house.

The suffrage party now has its headquarters in the Metropolitan Life Insurance building. Mrs. Belmont came near having the use of the old Progress Club at the corner of Fifth avenue and Sixty-third street for a woman's club. The building has been vacant since the club moved to its new quarters in Central Park West several years ago. It is owned by James H. Haggis. Mrs. Belmont, it is said, approached Mr. Haggis several months ago and according to the story got him to consent to let the suffragettes use the building until such time as he had sold or rented it. They were to have it free of rent, it was said, but before any papers had been signed Mr. Haggis changed his mind.

The property bought yesterday by Mrs. Belmont is a four story and basement stone front dwelling on a lot 22x98.9, between Fifth and Madison avenues.

MANY BOXING CLUBS UNSAFE.

According to Report Made by Fire Chief.

Commissioner Johnson Says That Report Shows That Some of the Clubs are Death Traps in Case of Fire. Dix Asks Sullivan to Reconsider.

Fire Commissioner Johnson received reports from Chief Kenlon yesterday in regard to inspections made by firemen of the different athletic clubs that had received licenses from the State Boxing Commission to hold bouts. These reports showed that the clubs had not complied with the requirements necessary, in the opinion of the firemen, to make them safe for the spectators in case of a fire or panic. The Commissioner said that some of the clubs, as at present arranged were a terrible death trap should there be a fire when a contest was going on.

It appeared to the Fire Commissioner that the State Boxing Commission had made no inspection of the premises before granting a license.

The report of Chief Kenlon declared that Brown's Athletic Club at 117 West Twenty-third street, which has a capacity of 900 persons, is especially a dangerous place for an assemblage. The club is on the third floor of the five story building.

"In my opinion the general conditions are dangerous," said the chief's report. "The audience must pass through three locker rooms to get out. Some of the doors open inward. The stairs are of wood and narrow and full of turns and landing places. There are insufficient means of escape from the club room."

The Commissioner said about this place: "In my opinion the premises known as Brown's Gymnasium, 117 West Twenty-third street, for which a boxing license has been granted by the Boxing Commission, is utterly unfit for the assembling of a crowd. The Fire Commissioner can only view the situation from the fire hazard standpoint, and in that light it is difficult to imagine a more dangerous place. However, the Fire Department does not control the structural arrangements of places for which licenses are granted. That is the province of the several borough building boards."

In the Fairmont Athletic Club, 251 East 137th street, which holds 1,500 persons, there is a lack of auxiliary fire appliances and exit signs. According to the report, which recommends that the door on the west side should be larger.

The chief recommends that in the Twentieth Century Athletic Club, on West Sixty-sixth street, the fire alarm stationery, in case of fire or panic the loose chairs would prevent a speedy exit. More means of exit should also be provided. The attention of the several borough building boards is also called to an inadequate exit on the north side of the building.

The seats in the National Sporting Club, at 340 West Forty-fourth street, should also be made stationary, the report says, and more aisle space is required.

The Long Acre Athletic Club requires auxiliary fire appliances and stationary seats. The exits are insufficient and proper aisle space is lacking.

Stationary seats are demanded in the New Polo Athletic Club at 1808 Park avenue and the Madison Athletic Club at 2175 Second avenue. In the latter place, Madison Square Garden escapes criticism except on the ground that stationary seats are recommended.

The Fire Commissioner has no authority over these clubs under the present laws. If Gov. Dix signs the fire prevention bill, the Commissioner will have authority to vacate all dangerous buildings.

Gov. Dix repeated yesterday that he hoped James Sullivan would remain as chairman of the State boxing commission. The Governor has written Mr. Sullivan a letter expressing the hope that Mr. Sullivan would reconsider his resignation and consent to continue to hold the position. Mr. Sullivan, however, feels that the Fraxley boxing law can be justified if properly enforced and if the local authorities throughout the State give the support of the law to the boxing clubs. Mr. Sullivan will take no action upon his resignation.

FAULT LAID ON ENGINEER.

Long Island Railroad's Statement as to Collision at Hollands Station.

Following an investigation as to the accident at Hollands station, Rockaway Beach, where a number of passengers were injured by the locomotive of a train in charge of Engineer John Dunn and Conductor Larkin colliding with the rear end of an electric train on Sunday morning, Assistant Superintendent B. W. Thornton of the Long Island Railroad yesterday gave out a statement in which the charge made at the time that the locomotive was out of repair, is declared to be untrue.

Engineer Dunn had said that the air-brakes failed to work, that he was unable to stop his train at Hollands station and that it passed the station running at about fifteen miles an hour and hit the rear of the electric train, which was just leaving Hollands station.

According to the statement made in behalf of the railroad, the air-brakes of the locomotive were tried and found to be in good working order. Twice on the trip to Hollands the air-brakes were tried and found to be in good working order. The statement says: "An investigation has developed that the engineer did not avail himself of all the means for stopping his train."

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CLAIMS \$8,000 DAMAGES.

For Alleged Unlawful Autopsy on the Body of Her Son.

ETICA, Sept. 6. Mrs. Elizabeth Watson of Buffalo has started an action for \$10,000 damages against Dr. Charles Bernstein, Superintendent of the State Custodial Asylum at Rome, Dr. Maxwell C. Montgomery, assistant superintendent; Gilbert N. Lehr, Coroner of Onondaga county, and Dr. Howard F. Hubbard for being parties to an alleged unlawful autopsy and alleged mutilation of the body of her son, Harold Watson, who died on March 1 at the Rome institution. The action will be tried in the Supreme Court at Rome.

Mrs. Watson in the papers in the action declares that her son, who was taken to the Rome institution last January, was not an imbecile, but that he had been a paralytic since he was two years old. She alleges that the records show that Dr. Hubbard and Montgomery made only a superficial examination of the dead youth's body and determined incorrectly the cause of his death. Mrs. Watson also alleges that affidavits to this effect are on file in Onondaga county showing no reference to the necessity for an autopsy.

Louis Sabin, the hotel keeper and former postmaster of last Saturday charged with obtaining money from Hungarian workmen by representing that he was running a branch of the postal savings bank, got a writ of habeas corpus from Supreme Court Justice Goff yesterday.

Sabin insisted that his arrest was based on a civil transaction and that no indictment had been returned against him in New Jersey.

NITROGLYCERINE FROM KITES.

Magonistas Plan Attack on Juarez From El Paso—In Need of Cash.

EL PASO, Sept. 6.—Using scientifically constructed box kites for dropping nitro-glycerine bombs from a high altitude the Magonistas will make an effort to capture the city of Juarez on September 16 if the leaders who are now in El Paso do not lose their nerve. September 16 is Mexican Independence day and the leaders believe that large numbers of dissatisfied Maderistas will flock to their ranks if a demonstration is made on the border city.

Another reason is spurring the Magonistas to plan the proposed attack: they need money. The funds of the local Junta are low. Likewise the Los Angeles Junta is getting short of ready cash. The banks, custom house and stores in Juarez have a quantity of real money which looks good to the "counter revolutionists."

The finance their border insurrection. Plans for the box kites have been drawn by an American soldier of fortune who fought with Madero, the nitro-glycerine has been ordered and the 200 Magonistas say they now await only the 16th to start their second attack upon the old town.

The Magonistas are holding regular meetings to discuss their plans; they are long on discussion. "But wait," they say. "When we take the town and secure the coveted loot we will be able to buy the marching guns which we can use to our advantage. We will give sympathetic American company men half pay for in advance. Then the second hand rifles will be bought wholesale and ammunition procured."

The merchants of Juarez could be somewhat uneasy over the large number of laborers now in the city out of work. There are about 600 of these in the city at present and they have no means of support.

The city and donations made by the merchants. Several hundred more are coming and the authorities expect that there will be a thousand there by Friday.

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COLLINS AND ALLEN INDICTED.

SMUGGLING CHARGES AGAINST MRS. JENKINS'S FRIENDS.

They Are Accused of Bringing in Jewels Without Payment of Duty, and if Convicted May Each Get Six Years and a Fine of \$15,000—Both Are Wealthy.

The Jenkins-Allen jewel case, which has been before the public since Mrs. Helen Dwell Jenkins announced last spring that she was robbed of valuable gems while staying at the Hotel Lorraine in this city, came to a head yesterday when United States Attorney Henry A. Wise made public two indictments found by the Federal Grand Jury on August 23 against Nathan Allen, a wealthy leather manufacturer of Kenosha, Wis., and John H. Collins, president of the Southern Cotton Gin Company of Memphis, Tenn. The indictments charge both men with smuggling and with conspiracy with "diverse other persons" to defraud the United States.

On June 25, 1909, Mrs. Jenkins, accompanied by Allen and Collins and a maid, arrived here from England on the Lusitania. The party, which had been touring Europe in Mrs. Jenkins's motor car, it was said, brought sixteen trunks. Though no definite information has been obtained on the point, it has been generally understood that no duty, or at least only part duty, had been paid on the contents of the trunks, which were bought abroad, or on certain articles of jewelry which the indictments found last month charge Allen and Collins with concealing on their persons when they reached New York.

Specifically, the indictment against Allen charges that on June 25, 1909, the leather manufacturer "did knowingly, wilfully, fraudulently and unlawfully import one large pearl necklace valued at \$10,000 and gave her to the Southern Cotton Gin Company of Memphis, Tenn. The value of these jewels are placed respectively at \$16,000 and \$2,280. The indictment says Allen concealed the necklace and bracelet on his person and told acting Deputy Surveyor Joseph Sulzbach that he had nothing which was dutiable.

The third and last count of the indictment charges conspiracy with "diverse other persons" to defraud the Government with respect to duty on the articles specified.

Though the indictment is brief and specifies only two articles of jewelry as having been entered without payment, it was said yesterday at the Federal District Attorney's office that Allen had many other dutiable articles concealed about him when he and his party landed at this port. No one was prepared to give an aggregate value of the merchandise on which duty should have been paid, but it has been currently reported that the jewels were worth \$150,000, in addition to a pearl necklace valued at \$70,200.

According to rumor, Allen was at one time an ardent admirer of Mrs. Jenkins and he said he gave her jewels of great value. A subsequent misunderstanding between the woman and the Wisconsin manufacturer was the incentive, it is said, which led him to smuggle the jewels into the country before the Federal Grand Jury to testify that he had not been imported without payment of duty.

John R. Collins, the other indicted man, is a wealthy coal operator of Tennessee and is a close personal friend of Allen. He is said to be a friend also of Mrs. Jenkins, who, he testified several times in the course of the summer, when the indictments were handed to the court on August 23 last they were placed under seal.

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